

HON. BENJAMIN H. SETTLE

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

NATHEN BARTON,

Plaintiff

v.

SERVE ALL, HELP ALL, INC.

Defendants.

Case No.: 3:21-cv-05338-BHS

MOTION TO AMEND ORDER
SETTING PRETRIAL DATES AND
TO CONTINUE TRIAL

Noted for: July 22, 2022

SERVE ALL, HELP ALL, INC., a
California non-profit corporation,

Counterclaimant

v.

NATHEN BARTON,

Counter defendant.

COMES NOW Defendant and Counterclaimant SERVE ALL, HELP ALL, INC. and moves
this court for an order amending the order setting pretrial dates and continuing trial. This

MOTION TO AMEND ORDER SETTING
PRETRIAL DATES AND TO CONTINUE TRIAL
3:21-cv-05338-BHS

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1 motion is based on the attached argument, the declaration of counsel, and the records and
2 files herein.

3 Dated July 3, 2022

s/Donna Gibson

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8 MOTION TO AMEND ORDER SETTING PRETRIAL DATES AND TO CONTINUE
9 TRIAL

10 *STATEMENT OF FACTS*

11 On September 3, 2021, this court, via Docket No. 8, entered a minute order setting
12 trial and pretrial dates as follows:

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15 THREE DAY* Jury Trial is set for 8/30/2022 at 9:00 AM in Courtroom E before
16 Judge Benjamin H. Settle. Joinder of Parties due by 10/4/2021, Amended Pleadings
17 due by 10/14/2021, Expert Witness Disclosure/Reports under FRCP 26(a)(2) due by
18 2/22/2022, Rebuttal Expert Disclosure/Reports due by 3/23/2022, Motions due by
19 4/4/2022, Discovery completed by 5/2/2022, Dispositive motions due by 6/1/2022,
20 Motions in Limine due by 7/25/2022, Pretrial Order due by 8/8/2022, Voir dire/jury
21 instructions/trial briefs due by 8/9/2022, Agreed Neutral Statement of the Case due by
22 8/9/2022, Deposition Designations due by 8/9/2022, Pretrial Conference set for
23 8/15/2022 at 10:00 AM in Courtroom E.
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1 Docket 8. On April 5, 2022, Defendant filed a motion for leave to file an Amended Answer
2 and Counterclaim. *See* Docket 56. That motion was noted for April 22, 2022 and the Court
3 granted that motion on June 16, 2022. *See* Docket 80. The amended answer and counterclaim
4 was filed on June 23, 2022. Docket 82. Plaintiff and Counter defendant BARTON filed a
5 motion for reconsideration of the filing of the amended answer and counterclaim on June 22,
6 2022, (Docket 81) and that was denied on June 27, 2022. *See* Docket 85.

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AUTHORITY

Civil Rule 16(b)(6) allows for the modification of the schedule when good cause exists
and with the judge's consent.

ARGUMENT

The Plaintiff/Counter defendant has not filed an answer to the counterclaim that was
filed on June 22. Because the Counterclaim needs to be answered and then possibly
discovery conducted and dispositive motions – deadlines for which have already passed, the
order setting pretrial dates should be amended and the trial date continued accordingly. There
is good cause, specifically, the filing of the amended answer and counterclaim, for the
modification of the order and the defendant/counterclaimant seeks the judge's permission to
modify the dates as follows:

Jury Trial is set for 8/30/2022 at 9:00 AM in Courtroom E before Judge Benjamin H.
Settle. Joinder of Parties due by 10/4/2021, Amended Pleadings due by 10/14/2021,
Expert Witness Disclosure/Reports under FRCP 26(a)(2) due by 2/22/2022, Rebuttal
Expert Disclosure/Reports due by 3/23/2022, Motions due by 4/4/2022, Discovery
completed by 5/2/2022, Dispositive motions due by 6/1/2022, Motions in Limine due
by 7/25/2022, Pretrial Order due by 8/8/2022, Voir dire/jury instructions/trial briefs

1 due by 8/9/2022, Agreed Neutral Statement of the Case due by 8/9/2022, Deposition
2 Designations due by 8/9/2022, Pretrial Conference set for 8/15/2022 at 10:00 AM in
3 Courtroom E.

4 If the answer to the counterclaim is filed 21 days after the filing, that is July 13, which
5 is 12 days before the Motions in limine are due, and 32 days before trial, and not enough time
6 for a dispositive motion or much of anything to be accomplished. To further simply this
7 amendment, the defendant/counterclaimant requests the court limit the amount of discovery
8 allowed to one set of interrogatories, one set of requests for production, and one set of
9 admissions, no more than 25 in nature.

10 Therefore, defendant/counterclaimant respectfully moves this court for an order
11 amending the order setting pretrial dates and continuing trial. Defendant/Counterclaimant
12 suggests 60 days for discovery, 30 days after for dispositive motions, and trial date in
13 December, with corresponding dates for motions in limine, pretrial order, voir dire/jury
14 instructions/trial brief, agreed neutral statement of the case, deposition designations, and
15 pretrial conference.
16

17 Respectfully submitted this 3rd day of July, 2022.

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